

29. (New) The propellant-free foamable aqueous composition according to claim 28 further comprising a medicament.

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cont.

30. (New) The propellant-free foamable aqueous composition according to claim 29, wherein the medicament is selected from the group consisting of pramoxine HCl, phenylephrine HCl, ephedrine sulfate, dibucaine HCl and combinations thereof.

Remarks

The claims are 1, 3, 4, 7-10 and 13-30, with claims 1, 21 and 26-28 being independent. Claims 2, 5, 6, 11 and 12 have been cancelled without prejudice or disclaimer. Claims 1, 3, 7, 8, 13-15, 17, 21 and 23-25 have been amended to clarify the invention. New claims 28-30 have been added. Applicant submits that no new matter has been added. Reconsideration of the present claims is respectfully requested.

Claims 1, 3, 7, 8, 13-15, 17, 21 and 23-25 have been amended. More specifically, claim 1 has been amended to include the subject matter of each of cancelled claims 2, 5, 6, 11 and 12 and to close the claim to the possibility of inclusion of any other ingredient which would materially affect the basic characteristics of the composition. In addition, the dependencies of claims 3, 7, 8 and 13-15 have been adjusted accordingly, and each of claims 24 and 25 have been amended to depend from claim 1. Claim 14 has also been amended to replace "polyethylene glycol 23M" with --polyethylene glycol (23 oxyethylene)--; support for this amendment can be found in Example 2. Claims 17 and 23 have been amended to be linguistically consistent with claim 1. Claim 21 has been amended to be in independent form, i.e., including the subject matter of amended claim 1.

Applicant submits that each of the above-noted amendments are fully supported by the application as originally filed and that no new matter has been added.

New claims 28-30, directed to a preferred embodiment of the present invention, have been added. These claims are fully supported by the original specification as filed and particularly at, inter alia, page 7 and the examples. Accordingly, no new matter has been added.

Claims 1-23, 26 and 27 stand rejected under 35 U.S.C. §112, second paragraph. In response, claim 14 has been amended to replace "polyethylene glycol 23M" with --polyethylene glycol (23 oxyethylene)--. Further, Applicant respectfully traverses the rejection insofar as relates to the indefiniteness of the term "stable". Applicant submits that "stable foam" is adequately defined in the present specification at page 5, lines 1-7, as "a non-irritating dry, relatively firm foam with low solids content which forms foam bubbles with a low contact angle with bathroom tissue and which maintains the integrity of the bathroom tissue". One of ordinary skill in this art would readily understand exactly what is meant by the term "stable foam" given the above-noted disclosure. Accordingly, Applicant respectfully requests withdrawal of the §112 rejection.

Claims 1, 2, 5, 6, 11, 12, 17, 19 and 23-25 stand rejected under 35 U.S.C. §102(a), (b) and (e) as being anticipated by Fowler (U.S. Patent No. 5,635,469). Claims 1-3, 5-7, 11, 12, 14 and 23-25 stand rejected under 35 U.S.C. §102(a), (b) and (e) as being anticipated by Jorgensen (EP 1 055 425). Claims 1-13 and 17-27 stand rejected under 35 U.S.C. §103(a) as being obvious over Singh (U.S. Patent No. 5,858,371) in view of Pregozen (U.S. Patent No. 5,141,803), Jorgensen and Fowler. Claims 14-16 stand rejected

under 35 U.S.C. §103(a) as being obvious over Singh, Pregozen, Jorgensen, Fowler and further in view of Wenninger (Int'l Cosmetic Ingredient Dictionary and Handbook, 1997).

Prior to addressing the merits of the prior art rejections, Applicant believes that a brief review of the key features and advantages of the present invention would be helpful. Generally the instant application is directed to a propellant-free foamable aqueous composition, as well as to a related system for delivering a foam, the foam itself, a vaginal or hemorrhoidal wipe product and a foam wipe kit. Presently amended independent claims 1 and 21 are directed to propellant-free foamable aqueous compositions which are capable of forming a stable foam when dispensed from a propellantless finger actuated mechanical pump dispenser and which are suitable for use as a vaginal or hemorrhoidal wipe.

Importantly, each of the claimed aqueous compositions contain (a) water in an amount from about 70% to about 98% by weight, based on the total weight of the aqueous composition; (b) surfactant in an amount from about 2% to about 35% by weight, based on the total weight of the aqueous composition, wherein the surfactant is selected from the group consisting of nonionic surfactants, amphoteric surfactants, anionic surfactants and mixtures thereof; and (c) foam stabilizing agent in an amount from about 0.10% to about 5% by weight, based on the total weight of the aqueous composition, wherein the foam stabilizing agent is selected from the group consisting of natural and synthetic gums, polyalkylene glycols, alkylene polyols and combinations thereof. Independent claim 21 further includes a medicament. Both of independent claims 1 and 21 use "consisting essentially of" language.

New independent claim 28 is directed to a similar propellant-free foamable aqueous composition. However, independent claim 28 utilizes "comprising" language and

recites the presence of water, a surfactant combination of polysorbate 20, triethylamine-cocoyl glutamate and disodium cocoamphodiacetate, and foam stabilizing agent.

Independent claim 26 is directed to a vaginal or hemorrhoidal wipe product comprising a stable foam on bathroom tissue. Independent claim 27 is directed to a foam wipe kit comprising a propellantless finger actuated mechanical pump dispenser containing a propellant-free foamable aqueous composition and a disposable substrate.

The above-noted aqueous foamable composition, which is an integral part of each of the embodiments of this invention, allows for the formation of a stable foam. Such a stable foam remains intact for an extended period of time, unless and until applied onto a surface with pressure such as by rubbing and/or with increasing temperature. The pressure and/or increased temperature which eventually causes the foam to collapse makes the materials in the foam available for wipe usage, e.g., cleansing, medicating. The stable foam can be applied to bathroom tissue or some other disposable substrate without being absorbed by such. In this way, a disposable vaginal or hemorrhoidal wipe product can be advantageously achieved without the use of a foil packet, a Tucks brand jar or a diaper wipe container.

With regard to independent claims 1 and 21, directed to propellant-free foamable aqueous compositions consisting essentially of recited amounts of water, recited amounts of particular surfactants and recited amounts of particular foaming agents, each of the cited references is easily distinguishable. Fowler does not disclose or suggest the essential composition of the claimed aqueous compositions, i.e., amounts of surfactants, foam stabilizers, etc. What is more, Fowler necessarily includes a water soluble cationic or nonionic polymer to aid in the deposition of humectants and/or emollients; such a

deposition aid is not required by the present invention. Similarly, Jorgensen necessarily includes a salt of acrylates/C₁₀₋₃₀ alkyl acrylate crosspolymer or a salt of acrylates polymer as a foam stabilizer; such foam stabilizers are not contemplated for use in the present invention. The composition of Singh is completely different from that of the present invention and is wholly based upon the presence of a flavanoid-containing *Euphorbia prostate* extract as an active ingredient. Furthermore, Pregozen is not directed to an aqueous foamable composition at all, and Wenninger provides no relevant disclosure apart from its teaching of xanthan gum as a stabilizer or thickener.

None of these references, whether considered alone or in any combination, anticipate or render obvious the key features of the invention as set forth in independent claims 1 and 21. Namely, none of the cited references disclose an aqueous foamable composition with the particular surfactants and/or foam stabilizers, let alone the same amounts of such, which are used in the present invention. As a result, one of ordinary skill in this art could not consistently achieve a stable foam, as defined herein, given the disclosure of the cited references. Additionally, certain of the cited references necessarily include ingredients which could not be included in the scope of the present claims, given the "consisting essentially of" language. Therefore, the invention as set forth in claims 1 and 21 is not anticipated or rendered obvious by any of the cited references.

With regard to new independent claim 28, directed to an aqueous composition comprising water, a surfactant combination of polysorbate 20, triethylamine-cocoyl glutamate and disodium cocoamphodiacetate and a foam stabilizer, none of the cited references discloses or suggests, in any way, the specific surfactant blend advantageously employed. Again, as a result, one of ordinary skill in this art could not

consistently achieve a stable foam, as defined herein, given the disclosure of the cited references. Therefore, the invention as set forth in claim 28 is not anticipated or rendered obvious by any of the cited references.

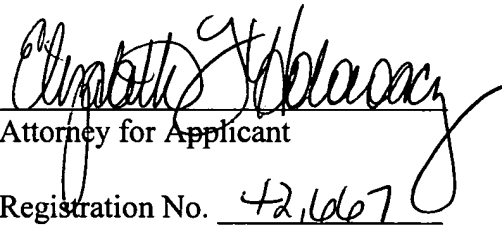
With regard to present independent claims 26 and 27, directed to a vaginal or hemorrhoidal wipe product and a foam wipe kit, respectively, Applicant submits that none of the cited references disclose or suggest the use of bathroom tissue or a disposable substrate in combination with a stable foam, as required by the present claims. Singh was cited for its disclosure of pharmaceutical compositions in medicated pads, and Pregozen was cited for its disclosure of impregnated nonwoven substrates. However, as outlined in detail at, inter alia, page 5 of the present specification, the integrity of the bathroom tissue or disposable substrate is not compromised, i.e., there is no absorption, according to the present invention. Therefore, the invention of present claims 26 and 27 is distinct from the cited references.

Accordingly, for all of the above-noted reasons, Applicant respectfully requests withdrawal of the prior art rejections.

In view of the foregoing amendments and remarks, favorable reconsideration and passage to issue of the present application is respectfully requested.

Applicant's undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,


Attorney for Applicant
Registration No. 42,667

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200



VERSION SHOWING CHANGES MADE TO CLAIMS

1. (Amended) A propellant-free foamable aqueous composition capable of forming a stable foam when dispensed from a propellantless finger actuated mechanical pump dispenser and suitable for use as a vaginal or hemorrhoidal wipe [comprising] consisting essentially of:

(a) water in an amount from about 70% to about 98% by weight, based on the total weight of the aqueous composition;

(b) surfactant in an amount from about 2% to about 35% by weight, based on the total weight of the aqueous composition, wherein the surfactant is selected from the group consisting of nonionic surfactants, amphoteric surfactants, anionic surfactants and mixtures thereof; and

(c) foam stabilizing agent in an amount from about 0.10% to about 5% by weight, based on the total weight of the aqueous composition, wherein the foam stabilizing agent is selected from the group consisting of natural and synthetic gums, polyalkylene glycols, alkylene polyols and combinations thereof.

Claim 2 has been cancelled.

3. (Amended) The propellant-free foamable aqueous composition according to claim [2] 1, wherein water is present in an amount from about 80% to about 98% by weight, based on the total weight of the aqueous composition.

Claim 5 has been cancelled.

Claim 6 has been cancelled.

7. (Amended) The propellant-free foamable aqueous composition according to claim [6] 1, wherein the surfactant is present in an amount from about 5% to about 15% by weight, based on the total weight of the aqueous composition.

8. (Amended) The propellant-free foamable aqueous composition according to claim [5] 1, wherein the surfactant is a combination of polysorbate 20, triethylamine-cocoyl glutamate and disodium cocoamphodiacetate.

Claim 11 has been cancelled.

Claim 12 has been cancelled.

13. (Amended) The propellant-free foamable aqueous composition according to claim [12] 1, wherein the foam stabilizing agent is present in an amount from about 2% to about 4% by weight, based on the total weight of the aqueous composition.

14. (Amended) The propellant-free foamable aqueous composition according to claim [11] 1, wherein the foam stabilizing agent is a combination of glycerine, xanthan gum and polyethylene glycol [23M] (23 oxyethylene).

15. (Amended) The propellant-free foamable aqueous composition according to claim [11] 1, wherein alkylene polyols are present in an amount from about 0.1% to about 10%, gums are present in an amount from about 0.05% to about 1%, and polyalkylene glycols are present in an amount from about 0.05% to about 2% by weight, based on the total weight of the aqueous composition.

17. (Amended) The propellant-free foamable aqueous composition according to claim 1 further [comprising] consisting of a preservative.

21. (Amended) [The] A propellant-free foamable aqueous composition [according to claim 1 further comprising a] capable of forming a stable foam when dispensed from a propellantless finger actuated mechanical pump dispenser and suitable for use as a vaginal or hemorrhoidal wipe consisting essentially of:

(a) water in an amount from about 70% to about 98% by weight, based on the total weight of the aqueous composition;

(b) surfactant in an amount from about 2% to about 35% by weight, based on the total weight of the aqueous composition, wherein the surfactant is selected from the

group consisting of nonionic surfactants, amphoteric surfactants, anionic surfactants and mixtures thereof;

(c) foam stabilizing agent in an amount from about 0.10% to about 5% by weight, based on the total weight of the aqueous composition, wherein the foam stabilizing agent is selected from the group consisting of natural and synthetic gums, polyalkylene glycols, alkylene polyols and combinations thereof; and

(d) medicament.

23. (Amended) The propellant-free foamable aqueous composition according to claim 1 further [comprising] consisting of a constituent selected from the group consisting of lubricants, chelating agents, moisturizers, healing agents, fragrance, color and mixtures thereof.

24. (Amended) A system for delivering a foam suitable for use as a vaginal or hemorrhoidal wipe agent comprising a propellantless finger actuated mechanical pump dispenser containing a propellant-free foamable aqueous composition according to claim 1.

25. (Amended) A stable foam suitable for use as a vaginal or hemorrhoidal wipe agent formed by dispensing from a propellantless finger actuated mechanical pump dispenser a propellant-free foamable aqueous composition according to claim 1.

28. (New) A propellant-free foamable aqueous composition capable of forming a stable foam when dispensed from a propellantless finger actuated mechanical pump dispenser and suitable for use as a vaginal or hemorrhoidal wipe comprising:

(a) water;

(b) surfactant which is a combination of polysorbate 20, triethylamine-cocoyl glutamate and disodium cocoamphodiacetate; and

(c) foam stabilizing agent.

29. (New) The propellant-free foamable aqueous composition according to claim 28 further comprising a medicament.

30. (New) The propellant-free foamable aqueous composition according to claim 29, wherein the medicament is selected from the group consisting of pramoxine HCl, phenylephrine HCl, ephedrine sulfate, dibucaine HCl and combinations thereof.